

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	DA 98-2410
)	

To: The Common Carrier Bureau

COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC") hereby comments on the Second Recommended Decision issued by the Joint Board in the referenced proceeding. PRTC endorses the Joint Board's support of the Commission's earlier pledge that universal service high cost support to states be held at current levels. PRTC also urges the Commission to adopt the Joint Board's proposal to continue the existing policy that provides support from the federal universal service program to areas that have particularly high costs, and clarify that such federal support may continue to be used to reduce intrastate rates. Although much uncertainty with respect to the modeling methodology remains, PRTC urges that the "hold harmless" policy and the applicability of federal high cost support to intrastate rates be confirmed as essential underpinnings of the federal universal service program.

I. THE COMMISSION AND JOINT BOARD AGREE THAT STATES SHOULD BE HELD HARMLESS

The Joint Board expressly concurred with the "hold harmless" principle originally espoused by the Commission in its Report to Congress. To "hold harmless" means that no state would receive less support than it currently does under existing high cost support mechanisms.

The Joint Board acknowledged that "[i]f substantial reductions [in support] were to occur in a

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single year, some consumers could experience rate shock. Both significant, sudden increases in the fund size overall, and significant decreases in the support that goes to a particular carrier, could have a notable impact on consumers' rates.”¹ In light of the Commission's prior “hold harmless” commitment in the Report to Congress, no non-rural carrier “will receive less federal high cost assistance than the amount it currently receives from explicit support mechanisms.”²

The Joint Board's understandable concern about rate shock to consumers in the event of significant reductions in universal service support is especially applicable to Puerto Rico. As PRTC has determined, calculation of universal service support for Puerto Rico based on the proxy models for which Puerto Rico data is available virtually eliminates universal service high cost support for the island.³ To address this unjustified result, PRTC has proposed that, consistent with Section 254(b)(3) of the Communications Act, carriers serving insular areas be treated like rural carriers for the purpose of determining universal service support.

The “hold harmless” principle is similar in effect to PRTC's proposal for carriers serving insular areas. PRTC has urged the Commission and the Joint Board to find that, as a carrier serving an insular area, PRTC would not be subject to the proxy model methodology until the rural carriers are,⁴ thereby maintaining universal high costs support at its current levels. Section 254(b)(3) specifies that customers in rural, insular, and high cost areas must have access to

¹ Second Recommended Decision at ¶ 51.

² Id. at ¶ 53.

³ See, e.g., Letter from Dick Edge to Members of the Federal-State Joint Board (dated Nov. 9, 1998).

⁴ See 47 U.S.C. § 254(b)(3)

services at rates that are reasonably comparable to the rates of consumers in urban areas.⁵ The Commission has determined that rural carriers cannot be transitioned immediately to the proxy model methodology because this methodology has not been sufficiently refined to ensure that universal service will not be jeopardized,⁶ and it remains the case that the mechanisms under consideration cannot predict the cost of serving rural areas with sufficient accuracy. This rationale is equally applicable to insular areas like Puerto Rico.

In addition to the transition plan for rural carriers, the Commission more generally has pledged that “no state should receive less federal high cost assistance than it currently receives.”⁷ This pledge is especially important for an insular area like Puerto Rico, with an average service penetration rate approaching seventy-seven percent (with many areas still under sixty percent and even fifty percent penetration), compared to ninety-four percent penetration nationwide.⁸ One cannot yet say that universal service has been achieved in Puerto Rico. Thus, federal universal service support continues to play an important part in the effort to make available affordable basic telephone service in Puerto Rico so that universal service may be achieved, at least to extent it has been achieved for the mainland.

⁵ Id. (emphasis added).

⁶ See Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd 8776, 8935-36 (¶ 293) (1997) (“Universal Service Order”).

⁷ Report to Congress, 13 FCC Rcd 11501 (¶ 197) (1998).

⁸ Telephone Subscribership in the United States, FCC, Common Carrier Bureau, Industry Analysis Division (January 1998) at Table 1. As the Commission stated, “insular areas generally have subscribership levels that are lower than the national average, largely as a result of income disparity, compounded by the unique challenges these areas face by virtue of their locations.” Universal Service Order, 12 FCC Rcd at 8839 (¶ 112).

In this regard, PRTC supports incorporation of the hold harmless principle into the methodology for determining universal service support levels, which would ensure that the high cost component of the universal service fund remains at current levels. In the absence of “hold harmless,” however, PRTC continues to urge the Commission to treat similarly carriers serving insular areas and rural carriers, such that insular carriers will not be transitioned to a universal service methodology whereby support is determined by results generated by a proxy model until it can be determined that the model accurately predicts a carrier’s cost of serving the area. This proposal is consistent with the law, with the goals of universal service, and with the Commission’s “hold harmless” pledge. In any event, carriers serving insular areas should not be transitioned to a proxy model methodology before it can be determined that such a methodology accurately predicts the support required to provide universal service.

Finally, the Joint Board proposed that any increase in high cost support identified under the forward-looking model be phased-in for non-rural carriers.⁹ The potential for increases in federal support will remain indeterminable until a model with inputs for every state has been reviewed thoroughly and adopted. Therefore, consistent with related Joint Board recommendations, any consideration of a change in support precipitated by model results cannot occur until those results are known.

II. FEDERAL UNIVERSAL SERVICE SUPPORT MUST BE APPLICABLE TO INTRASTATE RATES

The Joint Board proposed that existing high cost loop support continue to provide support for areas having particularly high costs.¹⁰ The Joint Board also recommended that additional

⁹ Second Recommended Decision at ¶ 53.

¹⁰ Id. ¶ 18.

high cost support, above the amount currently provided (and maintained according to the hold harmless principle), be applied to ensuring reasonably comparable intrastate rates.¹¹ PRTC agrees that a fundamental mission of federal universal service is to ensure that all subscribers have affordable rates, reflected by high subscribership rates. In this regard, PRTC urges the Commission to conclude that federal USF recipients may continue to use support to ensure affordability of intrastate rates and that the applicability of federal high cost universal service is not limited to reducing interstate access charges, as originally determined in the Access Charge Reform Order.¹²

Among the issues referred to the Joint Board for consideration was “[t]he extent to which federal universal service support should be applied to the intrastate jurisdiction.”¹³ The Commission specifically requested that the Joint Board consider the extent to which any implicit interstate support or intrastate support should be made explicit through the federal universal service fund. The Commission already placed long term support in the federal universal service high cost fund and declared that any federal universal support received must be used to reduce the interstate revenue requirement. This conclusion presumably prohibited the use of any federal universal service support to ensure affordability of basic local rates.

Limiting in this manner the benefits of federal USF solely to the interstate access revenue requirements would not satisfy the statute or the Commission’s stated goals. Instead, it would have the effect of lowering access charges to interexchange carriers at the expense at intrastate

¹¹ Id. at ¶ 19.

¹² See 12 FCC Rcd 15982, 16148 (¶ 381) (1997).

¹³ Second Recommended Decision at ¶ 11.

retail customers. Even if such a flow-through could be guaranteed, however, it would never reach those consumers who rarely, if ever, initiate interstate long distance calls. In effect, these consumers could pay higher intrastate rates without experiencing any offsetting rate reductions. Yet, these are the customers to whom universal service support truly makes a difference between subscribing to basic phone service or not. In this regard, the Joint Board correctly recognized that to some extent, federal support should be used to ensure reasonable comparability of rates.

The Commission should expressly find that federal universal support may be applied consistent with current practices to ensure affordable intrastate rates. Such a finding would be consistent with the fact that universal service funds are intended, at least in part, to support local services. In assessing the issue of whether or not current rates are affordable, the Joint Board and the Commission have consistently focused upon local rates and services. Indeed, the Commission has determined that states are in a better position than the Commission to determine whether rates are affordable, which could only be the case if it is the affordability of local rates that is at issue.¹⁴ The reason for this focus by the Commission, the Joint Board, and proceeding participants is clear – the universal service funding envisioned under Section 254 is intended to ensure that basic service is available to subscribers at affordable rates.

In this regard, the prior stated restriction upon federal universal service support is contrary to the core statutory requirement of Section 254, that "[t]he Commission and the States should ensure that universal service is available at rates that are just, reasonable, and affordable."¹⁵ Therefore, the Commission should adopt the Joint Board's proposal to continue

¹⁴ Universal Service Order, 12 FCC Rcd at 8842 (¶ 118).

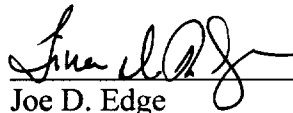
¹⁵ 47 U.S.C. § 254(i) (emphasis added).

the existing policy that provides support from the federal universal service program to areas that have particularly high costs, and clarify that such federal support may continue to be used to maintain intrastate rates at affordable levels.

III. CONCLUSION

For these reasons, PRTC endorses the incorporation of the "hold harmless" principle as a touchstone of the universal service program and continues to advocate that carriers serving insular areas, like rural carriers, should not be transitioned to a proxy model methodology until it can be determined that such a methodology accurately predicts the support required to provide universal service. In addition, the Commission should find that federal universal service support may continue to be applied to the reduction of intrastate rates.

Respectfully submitted,



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Dated: December 23, 1998

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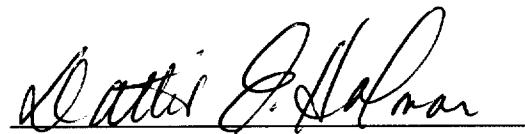
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